

## REMARKS

The Applicant appreciates the time taken by the Examiner to review the Applicant's present application. This application has been carefully reviewed in light of the Examiner's comments, including the Office Action mailed November 9, 2007. The Applicant respectfully requests reconsideration and favorable action in this case.

### Summary of rejections and amendments

The Examiner rejected claims 1-16 and 19-23 under 35 U.S.C. §103(a). The Applicant has amended claims 1, 10 and 22. Claims 1-16 and 19-23 are pending in the application.

### Rejections under 35 U.S.C. §103

Claims 1-4, 7, 10-14, 19, 22 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,471,411 ("Adams") in view of U.S. Patent No. 4,727,505 ("Konishi"). The Applicant respectfully traverses this rejection.

The Examiner states that Adams discloses a method including storing a plurality of sets of filter coefficients in a memory (citing abstract and col. 4, lines 32-35,) selecting a first one of the sets of filter coefficients (citing col. 6, lines 53-59, and col. 7, lines 6-21,) and interpolating the selected set of filter coefficients (citing col. 4, lines 54-57.) The Applicant respectfully submits that Adams does not teach storing a plurality of sets of filter coefficients in a memory or selecting a particular one of the stored sets of filter coefficients. Adams instead teaches storing a single set of filter coefficients (abstract, lines 3-4, col. 4, lines 34-35.) Adams then selects a subset of this single set of coefficients (col. 7, lines 8-9) for interpolation.

The Applicant has amended claims 1, 10 and 22 to clarify the difference between the single set of filter coefficients taught by Adams and the multiple sets of filter coefficients recited in the claims. Specifically, the Applicant has amended these claims to specify that each of the sets of filter coefficients defines a different filter function. Even if the subsets of Adams' single set of filter coefficients could themselves be considered different sets, they do not define different filter functions and therefore fail to teach this limitation of the claims. Konishi also fails to teach this limitation, so the combination of Adams and Konishi fails to render the claims obvious under 35 U.S.C. §103 (see M.P.E.P. 2143.)

Because each of the remaining (dependent) claims in the application depend from one of claims 1, 10 and 22 and therefore incorporate the limitation set these claims, these claims are distinguished from Adams and Konishi for the same reasons as claims 1, 10 and 22. The remaining references cited by the Examiner (Thompson and Auld) do not teach the use of multiple sets of filter coefficients defining different filter functions, so they do not remedy the

shortcomings of Adams and Konishi. Consequently, the combination of Adams and Konishi with either of these references also fails to support an obviousness rejection of the claims.

For at least the foregoing reasons, the Applicant respectfully submits that the rejections of all the claims in the application under 35 U.S.C. §103 have been overcome. The Applicant therefore respectfully requests that the rejections be withdrawn and the claims allowed.

As to claims 2-4, 12-14 and 23, the Examiner takes the official notice that, for example, "convolving in a sample rate converter of a digital audio amplifier" was well known in the art at the time the invention was made.

The Applicant points out that Official Notice which is unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known are capable of instant and unquestionable demonstration as being well known (M.P.E.P. 2144.03.) "It would not be appropriate for the Examiner to take official notice of facts without citing a prior reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known" (id.) If Official Notice is taken, the basis for the Examiner's reasoning must be set forth explicitly, and the Examiner must provide specific factual findings are predicated on sound technical and scientific reasoning to support his conclusion of common knowledge, so that the Applicant can adequately traverse the rejection (id.) If the Applicant challenges the Examiner's Official Notice, the Examiner must support the finding with adequate evidence (id.)

The Examiner provides no documentary evidence of this, and sets forth no technical and scientific reasoning to support this conclusion. The Applicant submits that this was not well known in the art at the time the invention was made and respectfully requests that the Examiner provide evidence to support his official notice that this was well known.

Claims 5, 6, 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Adams in view of Konishi and further in view of U.S. Patent No. 5,928,313 ("Thompson"). The Applicant respectfully traverses this rejection.

While the Examiner asserts that a person of ordinary skill would be motivated to combine Adams and Konishi with Thompson to arrive at the recited invention, the Applicant points out that Adams a single set of filter coefficients instead of selecting one of a plurality of sets of coefficients. Because Adams does not choose between the sets of filter coefficients, a register indicating one of the sets would serve no purpose in Adams' system. There would therefore be no motivation for a person of ordinary skill to combine the register of Thompson with the system of Adams (and Konishi.) It is only the disclosure of the present application that suggests the selection of one of a plurality of sets of coefficients. Using the teaching of the present application to combine the teachings of the prior art to form the invention would be an

impermissible use of hindsight (see M.P.E.P. 2143.01). The Applicant therefore believes the rejection of claims 5, 6, 15 and 16 over Adams, Konishi and Thompson is unsupported.

Claims 8, 9, 20 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Adams in view of Konishi and further in view of U.S. Patent No. 6,411,333 ("Auld"). The Applicant respectfully traverses this rejection. As noted above, none of the references teach the storing of multiple sets of filter coefficients defining different filter functions and the selection of one of these sets as recited in the claims. The references therefore fail to establish a prima facie case of obviousness of the claims under M.P.E.P. 2143. The respectfully requests that the rejections be withdrawn and the claims allowed.

#### Conclusion

The Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action.

For at least the foregoing reasons, the Applicant respectfully requests allowance of all claims pending in the application. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Applicant hereby petitions for a one-month extension of time for the filing of this response. The appropriate fee is submitted herewith. If any additional extensions of time are necessary to prevent the above referenced application from becoming abandoned, the Applicant hereby petitions for such extensions. If any fees are inadvertently omitted, or if any additional fees are required, or if any amounts have been overpaid, please appropriately charge or credit those fees to Deposit Account No. 50-3085 of the Law Offices of Mark L. Berrier.

Respectfully submitted,



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Dated: 3/4/08

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